

**ENTERED**

March 28, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**TRAVIEN BRADEN,  
(SPN #02224269)

Plaintiff,

vs.

A. PETROFF, *et al.*,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. H-17-0866

**MEMORANDUM AND OPINION**

Travien Braden, an inmate of the Harris County Jail (“HCJ”), sued in March 2017, alleging a denial of due process. Braden is representing himself and has not paid the filing fee. He sues A. Petroff, an Assistant District Attorney for Harris County who prosecuted him for aggravated assault of a family member in Cause Number 1533577. He also sues Roshar Grme, the foreman of the grand jury that indicted him. The threshold issue is whether Braden’s claims may proceed or whether they are subject to dismissal.

Braden alleges that ADA Petroff tried to coerce him to plead guilty, despite his innocence. Braden alleges that the grand jury foreman, Grme, engaged in racial profiling and relied on false information when preparing the indictment. Braden alleges that he has been wrongfully charged with aggravated assault of a family member and detained in the HCJ since December 8, 2016, without a probable cause hearing. Braden asks that the charges be dismissed for lack of evidence and that he be released from the HCJ.

A federal court has the authority to dismiss a complaint in which the plaintiff is representing himself if the court determines that it lacks an arguable basis in law or fact. 28 U.S.C.

§ 1915(e)(2)(B)(i); see *Denton v. Hernandez*, 504 U.S. 25, 31 (1992); *Richardson v. Spurlock*, 260 F.3d 495, 498 (5th Cir. 2001) (citing *Siglar v. Hightower*, 112 F.3d 191, 193 (5th Cir. 1997)). “A complaint lacks an arguable basis in law if it is based on an indisputably meritless legal theory, such as if the complaint alleges the violation of a legal interest which clearly does not exist.” *Davis v. Scott*, 157 F.3d 1003, 1005 (5th Cir. 1998) (quoting *McCormick v. Stalder*, 105 F.3d 1059, 1061 (5th Cir. 1997)).

Prosecutors are entitled to immunity from suit and from liability for the acts they take in pursuing the State’s case. See *Boyd v. Biggers*, 31 F.3d 279, 285 (5th Cir. 1994). Braden’s claims that ADA Petroff improperly charged him with aggravated assault of a family member and tried to coerce him to plead guilty are barred by immunity. The prosecutor’s intent is irrelevant as long as he is prosecuting the State’s claim. See *Imbler v. Pachtman*, 424 U.S. 409, 427 (1976). Prosecutors lose absolute immunity only when they take on roles outside of prosecuting or presenting the State’s case, such as when they provide legal advice to investigators. See *Burns v. Reed*, 500 U.S. 478, 492–93 (1991). The acts Braden alleges against ADA Petroff are protected by immunity. Braden’s claims against ADA Petroff are dismissed with prejudice.

Braden’s allegations against Grme, the foreman of the grand jury that returned the indictment against Braden, are also protected by immunity. A grand jury foreman is entitled to absolute immunity for signing and returning the indictment. See, e.g., *Walker v. Skeen*, 31 F. App’x 155 (5th Cir. 2001). Braden’s claims against Grme are also dismissed with prejudice.

The action filed by Travien Braden (SPN #02224269) lacks an arguable basis in law. His claims are dismissed with prejudice under 28 U.S.C. § 1915(e)(2)(B)(i). Braden’s motion to proceed without prepayment of filing fees, (Docket Entry No. 2), is granted. Any remaining pending motions

are denied as moot.

The HCJ must deduct twenty percent of each deposit made to Braden's inmate trust account and forward payments to the court on a regular basis, provided the account exceeds \$10.00, until the filing fee obligation of \$350.00 is paid in full.

The Clerk will provide a copy of this order by regular mail, facsimile transmission, or e-mail to:

(1) Sergeant Tom Katz, Inmate Trust Fund, 1200 Baker Street, Houston, Texas 77002, Fax 713-755-4546; and

(2) the District Clerk for the Southern District of Texas, Attention: Manager of the Three-Strikes List.

SIGNED on March 27, 2017, at Houston, Texas.

A handwritten signature in black ink, appearing to read 'Lee H. Rosenthal', is written over a horizontal line.

Lee H. Rosenthal  
Chief United States District Judge